



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

08/436,265


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EXAMINER INTERVIEW SUMMARY RECORD

All participants (applicant, applicant's representative, PTO personnel):

David Fitzgerald (PTO)
Vineet Kohli (atty.)

Date of interview: **15 October 1997** Type: ☒ Telephone/fax ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative)Exhibit shown or demonstration conducted: ☐ Yes ☒ No Attachment(s): ☒ Yes ☐ NoIf yes for either, brief description: **draft claims sent by applicant**Agreement ☐ was reached with respect to some or all of the claims in question ☒ was not reached.Claims discussed: **draft claims** Identification of prior art discussed: **Donahoe '892**

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Applicant submitted a set of draft claims intended to address most of the examiner's concerns in the outstanding Office action. The examiner indicated that claims to ALKs-1, 2, and 4 and all of the antibody claims would be withdrawn as nonelected. Additionally, it appeared to him that all of claims 43-72 appear to duplicate the claims from which they depend, since such claims are directed to single polypeptides. He found the vector, cell, and method claims for ALK-3 and 6 would be allowable. Because he had not searched the probe and "60%" claims, he could not indicate whether such claims would or would not be free of the prior art, although he was concerned about the Donahoe reference particularly with respect to these claims. The "60%" claims would also be subject to the enablement concerns discussed in the last Office action. Finally, the examiner considered that on this record, the claims requiring the hALK-5 sequence would not be patentable over Donahoe, which discloses what is evidently its rat homolog. Mr. Kohli indicated that applicant considered that because Donahoe did not evidence conception of the human sequence *a la Amgen*, the claims should be patentable over the prior art.

Mr. Kohli indicated that he would shortly file an amendment omitting at least the claims which the examiner would withdraw as nonelected. However, the examiner stated that because it did not appear that agreement would be reached, he would suspend the case and would proceed to set up the prospective interference. He also indicated, however, that he would permit entry of a supplemental amendment generally along the lines discussed.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

☒ 1. It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph below has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW (e.g., items 1-7 enumerated in M.P.E.P. § 713.04). If a response to the last Office action has already been filed, then applicant is given one month from this interview date to provide a statement of the substance of the interview.

☐ 2. Since the examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections, and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the substance of the interview unless box 1 above is also checked.